

Appeal from decision of Utah State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. U MC 144435 through U MC 144549.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim -- Mining Claims: Recordation

When a mining claim owner files a proof of labor for assessment work performed in 1977 or 1979 with the proper office of the Bureau of Land Management in 1980, he has not complied with the recordation requirements of sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and the claims are properly declared abandoned and void.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of pertinent statutes and regulations duly promulgated thereunder.

APPEARANCES: Nicholas J. Murphy, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Nicholas J. Murphy appeals the Utah State Office, Bureau of Land Management (BLM), decision of October 7, 1982, which declared the unpatented Green Bush Nos. 1 through 4, Green Tree Nos. 1 through 5, 8 through 10, Green Tea, Green Tea Nos. 1 through 18, and Derek Nos. 1 through 83 lode mining claims, U MC 144435 through U MC 144549, abandoned and void because no proof of labor

or notice of intention to hold the claims for the 1979/1980 assessment year was timely filed as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976).

Appellant states he has performed the required assessment work every year and has filed evidence of such with BLM. With his appeal he enclosed a copy of a receipt dated December 18, 1980, from BLM acknowledging receipt of evidence of assessment work.

Section 314 of FLPMA provides pertinently:

Sec. 314(a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of approval of this Act and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. * * *

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim * * *, an affidavit of assessment work performed thereon, * * *

(2) File in the office of the Bureau [of Land Management] designated by the Secretary [of the Interior] a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, * * *.

[1] Examination of the case file shows that the claims were located at various times from 1966 to April 1976. Copies of the notices of location were filed with BLM October 15, 1979. Proofs of labor were filed for the subject claims were received by BLM October 15, 1979, December 18, 1980, November 5, 1981, and September 13, 1982. Examination of the proof of labor for the Derek Nos. 1 through 83 claims, received December 18, 1980, shows that the instrument was recorded in San Juan County, Utah, August 17, 1979, and reflects assessment work performed between September 1, 1978, and September 1, 1979. The proof of labor for the other claims above listed, received on December 18, 1980, shows that it was recorded in San Juan County, August 22, 1977, and reflects assessment work performed between September 1, 1976 and September 1, 1977.

The Board has interpreted the statute to require that the same instrument be filed in both the county recording office and in the BLM state office in the same year. Filing a proof of labor in the county in one year, and then with BLM in a later year does not comply with the statutory requirements.

Where the requirement of filing a proof of labor or a notice of intention to hold a mining claim applies, such filing must be made within each calendar year, i.e., on or after January 1, and before December 31. Failure to file the same instrument in both the office of the county recorder where the location notice is of record and in the proper BLM office requires a holding that the mining claim is abandoned and void. See Oregon Portland Cement Co., 66 IBLA 204 (1982).

[2] All persons who deal with the Government are presumed to have knowledge of the law and regulations duly promulgated thereunder. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

R. W. Mullen
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

